

2. Whether EPA’s interpretation — including agency statements in the related Response to Comments issued in June 2023 — that the regulations require producers to maintain records of the

amount of separated food waste collected at the point of origin is arbitrary, capricious, or otherwise not in accordance with law; is in excess of statutory authority; or was promulgated without observance of procedure required by law.

3. Whether the regulatory requirement to maintain records of the point of origin where separated food waste is first collected, *see* 40 C.F.R. § 80.1454(j)(1)(ii), is arbitrary, capricious, or otherwise not in accordance with law; is in excess of statutory authority; or was promulgated without observance of procedure required by law.

4. Whether EPA's new regulatory requirement that Renewable Identification Numbers ("RINs") can be generated only for fuel actually used in the United States as opposed to fuel that is "produced for use" in the United States, 40 C.F.R. § 80.1431(a)(1)(viii), is arbitrary, capricious, or otherwise not in accordance with law; or was promulgated without observance of procedure required by law.

5. Whether EPA's new position — as reflected in agency statements made in the Response to Comments issued in June 2023 — to disallow self-declarations certifying that the feedstock qualifies as renewable biomass is arbitrary, capricious, or otherwise not in

accordance with law; or was promulgated without observance of procedure required by law.

Dated: October 11, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2023, I electronically filed the foregoing Non-Binding Statement of Issues to Be Raised with the Clerk of the Court for the United States Court of Appeals for the District of Columbia using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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